



**STATE OF ARIZONA**  
**DEPARTMENT OF INSURANCE**

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**REGULATORY BULLETIN 2001-13**

TO: All Medicare Supplement Insurers and Interested Parties.

FROM: Charles R. Cohen  
Director of Insurance

DATE: September 12, 2001

SUBJECT: **Medicare Supplement Premium Comparison Survey and Compliance with Benefits Improvement and Protection Act (BIPA)**

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Arizona has a large population of Medicare beneficiaries. Many of these consumers ask for the assistance of the Arizona Department of Insurance (ADOI) in their search for Medicare Supplement insurance. Once again this year, several Health Care Service Organizations (HMOs) are terminating or reducing their Medicare+Choice service areas. Therefore, it is more important than ever for Medicare beneficiaries to understand their rights and have accurate information when shopping for Medicare Supplement (Medigap) insurance.

The purpose of this bulletin is three-fold: 1) To remind Medigap carriers of their compliance responsibilities under state and federal statutes and regulations regarding the issuance of Medigap insurance on a Guaranteed-Issue basis, 2) To remind carriers to properly train their producers (formerly known as agents) and administrative staff of these regulations and 3) To require Medigap insurers to complete the attached **Medicare Supplement Premium Rate Survey**.

**Compliance with BIPA**

On December 21, 2000, The Medicare, Medicaid and SCHIP Benefits Improvement and Protection Act of 2000, also known as "BIPA", took effect. This federal law changes the availability of Medicare Supplement insurance on a Guaranteed-Issue basis for Medicare beneficiaries losing their coverage for a variety of reasons. This bulletin will primarily focus on those losing their Medicare+Choice coverage due to the termination of coverage in their service area.

Medicare+Choice enrollees who lose their coverage in 2002 will receive an Official Notice of Termination from their Medicare HMO no later than October 2, 2001. An enrollee whose plan is being terminated on 12/31/01, and who makes no prior election to join another Medicare+Choice organization, will be re-enrolled in Original Medicare upon the plan's termination of coverage. This individual has the option of enrolling, on a Guaranteed-Issue basis, in Medicare Supplement (including Medicare Select) plans A, B, C or F offered to Medicare beneficiaries by any carrier offering Medicare Supplement coverage in Arizona. To qualify for this Guaranteed issuance of coverage, the individual must apply for the Medicare Supplement or Medicare Select coverage no later than 63 days following the termination of the Medicare+Choice plan. See A.A.C. R20-6-1121.

An enrollee whose coverage under a Medicare+Choice plan is being terminated on 12/31/01 may switch to Original Medicare as soon as he or she receives notice that his or her Medicare+Choice plan is being terminated. Any individual who elects to do so has 63 days from the date of his or her disenrollment from the Medicare+Choice plan to apply for, on a Guaranteed-Issue basis, in Medicare Supplement plans A, B, C or F offered to Medicare beneficiaries by any carrier offering Medicare Supplement coverage in Arizona. An individual who chooses to exercise this option should arrange for his or her Medicare Supplement plan to start the first day of the month following their disenrollment in order to have seamless coverage. ADOI encourages Medigap carriers and producers to instruct these individuals to keep the original Medicare+Choice termination letter for their records and send a photocopy to the Medigap carrier as proof of loss of coverage. This will ensure that Medigap carriers can process the applications in an efficient and timely fashion. They should also be instructed to keep a copy of their Medicare Supplement application as proof that they acted within the 63 days.

While this Bulletin focuses on the new requirements for carriers under BIPA, there are a variety of other situations in which Medicare beneficiaries can obtain Medicare Supplement plans on a Guaranteed-Issue basis. Insurers and their producers should thoroughly understand these other situations as prescribed in A.A.C. R20-6-1121.

#### TIMING OF APPLICATION

To ensure that there is no gap in coverage for supplement benefits, enrollees whose Medicare+Choice coverage is being terminated may apply for Medicare supplement (including Medicare Select) coverage prior to 12/31/01 and request an effective date of 01/01/02 or earlier. While the law prohibits the sale of a health insurance policy that duplicates benefits, including a Medicare supplement plan that duplicates benefits a person has under a Medicare+Choice plan, Medicare supplement carriers are encouraged to sell Medicare supplement plans to M+C enrollees that will take effect upon termination of their Medicare+Choice plan. Accordingly, you should clarify this issue with your producers and staff and amend your procedures, if necessary.

#### "OPEN ENROLLMENT" VS. "GUARANTEED ISSUE"

In evaluating the coverage options outlined above, your staff should be aware that Medicare beneficiaries should consider not only the different enrollment rights, but also the different protections offered by open enrollment and guaranteed issue. When you issue coverage to an individual under open enrollment (see A.A.C. R20-6-1108), you may apply a pre-existing condition exclusion; however, for an individual age 65 or older you must credit the individual's prior health coverage against the exclusion.

For example, an individual may turn 65 on 07/18/01, and become covered in Original Medicare, and a Medicare supplement Plan H, on 07/01/01. The individual subsequently enrolls in a Medicare+Choice plan on 08/01/01. The individual's Medicare+Choice plan is leaving the market at the end of 2001. The individual would like to return to Original Medicare and enroll in Medicare supplement Plan J. The individual could:

- (a) Enroll in Medicare supplement Plan J under open enrollment. The length of the individual's enrollment in Original Medicare and the Medicare+Choice plan will affect the length of the individual's preexisting condition exclusion. If the individual disenrolls from the M+C plan effective 11/30/01, with an effective date of 12/01/00 for his Medicare supplement Plan J coverage, the carrier issuing his Medicare Supplement Plan J must reduce its preexisting condition exclusion by five months because of the individual's creditable coverage; or

(b) Enroll in Medicare supplement Plans A, B, C, or F under Guaranteed-Issue provisions with no preexisting condition exclusion. The individual can access Guaranteed-Issue enrollment either by allowing the Medicare+Choice plan to terminate, or terminating his Medicare+Choice enrollment and applying for a Medicare Supplement policy within 63 days of the date of the individual's termination.

Insurers are also reminded that they cannot discriminate in the pricing of the policies under Guaranteed-Issue circumstances. According to the Centers for Medicare & Medicaid Services Program Memorandum entitled "Rates for Guaranteed Issue Medigap Policies" (Transmittal Number 01-01), dated June, 2001, Medigap insurers must charge their best premium rate to any individual with protections under the federal statute. See the Program Memorandum or Section 1882(s)(3) of the Social Security Act, as amended by the Balanced Budget Act of 1997.

To summarize, under BIPA, the Guaranteed-Issue period begins on October 2, 2001, and ends 63 days after the termination of coverage. Assuming a consumer keeps his Medicare HMO coverage until the plan terminates on December 31, 2001, this means the Guaranteed-Issue period ends on March 4, 2002. Medigap insurers must offer plans A, B, C or F on a Guaranteed-Issue basis during this entire five-month period.

For more information and clarification on BIPA, you can review the entire law on the Website of the Centers for Medicare & Medicaid Services ("CMS"), (formerly known as the Health Care Financing Administration) at <http://www.hcfa.gov/regs/fr13jn01.pdf> or simply go to [www.hcfa.gov](http://www.hcfa.gov) and click on "Regulations and Notices".

### **Training of Producers, Customer Service and Underwriting Staff**

In years past, ADOI has received numerous reports about incorrect information being disseminated by insurance producers (agents) as well as insurance company customer service and underwriting personnel. We strongly urge you to thoroughly learn the new provisions and requirements of BIPA and provide adequate training to your home office staff and to the field producer force. It is imperative that consumers receive accurate information regarding their rights to Medigap coverage.

Misrepresentation in the sale of Medicare Supplement insurance is prohibited by A.R.S. § 20-443 and A.A.C. R20-6-1116. A.R.S. § 20-444 and A.A.C. R20-6-201 prohibit misleading or deceptive advertising. In addition, high-pressure tactics and cold lead advertising are violations of A.A.C. R20-6-1116. Even though the Medicare HMOs have not yet announced their withdrawals for this year, we have already begun to receive information about violations of these regulations. The Arizona Department of Insurance intends to fully investigate and prosecute any violations of BIPA and Arizona statutes and regulations. It is imperative that your producers are well-trained regarding these issues and that they comply with the aforementioned statutes and regulations.

### **Medicare Supplement Premium Comparison Survey**

In light of the upcoming round of M+C terminations and in order to assist consumers shopping for Medicare Supplement insurance, the Arizona Department of Insurance is going to publish its first annual Medicare Supplement Premium Comparison Survey. Our target date for publication is January 1, 2002. Our publication will stress the importance of comparison shopping for Medigap insurance, however it will also stress the importance of choosing a Medigap insurer which has financial strength, good customer service, etc.

Medicare Supplement insurance carriers doing business in Arizona must complete the attached survey forms and return them to the Arizona Department of Insurance as soon as possible, but **no later than November 30, 2001**. We are specifically requesting the rates which will be effective January 1, 2002. Insurers are required to complete this survey by the Director of the Arizona Department of Insurance according to the authority granted to him by A.R.S. § 20-142(C) and A.R.S. § 20-160. It is hoped that more formal action to obtain the needed information will be avoided by full cooperation of survey respondents.

In addition, Medigap insurers are hereby reminded that they must also submit an Annual Rate Filing of their Medicare Supplement insurance rates, prior to December 31, 2001, as required by A.A.C. R20-6-1110(C). It should be noted that the submission of the Annual Rate Filing will not suffice to comply with this Regulatory Bulletin. Medigap insurers must also complete the Medicare Supplement Premium Rate Survey and return it to this Department by the November 30, 2001, deadline date.

Please return the Medigap Rate Survey forms to:

Douglas E. Ullrich, Analyst  
Life and Health Division  
Arizona Department of Insurance  
2910 North 44<sup>th</sup> Street, Suite 210  
Phoenix, AZ 85018

You may also email it to [dullrich@id.state.az.us](mailto:dullrich@id.state.az.us)

Thank you for your anticipated cooperation with the matters discussed herein. For questions about this bulletin, call Doug Ullrich, Insurance Analyst in the Life and Health Division, at (602) 912-8460.



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CHARLES R. COHEN
Director of Insurance

Medicare Supplement Premium Rate Survey

As required by Regulatory Bulletin 01-11, please provide your company's premiums for Medicare Supplement Insurance (and Medicare Select, if applicable) in Arizona. We need you to calculate the average, unisex rates for a non-smoker living in the counties listed on the attached charts. Provide premiums for each plan which you market in Arizona for all charts. If you do not offer a certain plan (i.e. "Plan E"), simply leave that cell blank on the charts. Note: If you have "sister" companies that also sell Medicare Supplement insurance in Arizona, you will need to complete a separate survey for those companies.

In addition to completing the attached rate charts, please answer the following questions:

Name of Insurance Company: \_\_\_\_\_ NAIC # \_\_\_\_\_
Address of Insurance Company: \_\_\_\_\_
Toll-Free phone number consumers can call to obtain more information on your policies: (\_\_\_\_) \_\_\_\_-\_\_\_\_
Website Address of Insurance Company: \_\_\_\_\_
Name and Phone number of person completing this survey: \_\_\_\_\_ (\_\_\_\_) \_\_\_\_-\_\_\_\_
Are your rates Attained Age, Issue Age, or Community Rated? \_\_\_\_\_
Does your company differentiate rates based on sex? \_\_\_\_\_
Does your company differentiate rates based on tobacco use? \_\_\_\_\_
Does your company differentiate rates based on geographic area? \_\_\_\_\_
Please provide the number of Arizona resident lives currently covered by a Medicare Supplement policy with your company as of September 30, 2001: Individual \_\_\_\_\_ Group \_\_\_\_\_
Does your company provide a marital discount?? \_\_\_\_\_ If so, how much? \_\_\_\_%
Does your company have one set of rates based on Medical Underwriting and another set of rates based on Guaranteed Issue? \_\_\_\_\_
Does your company impose a limitation for pre-existing conditions? \_\_\_\_\_
If so, what is the length of time imposed? \_\_\_\_\_
Does your company assess a policy fee? If so, what is it? \_\_\_\_\_
Could your company provide us with the number of Arizona resident lives currently covered by a Medigap policy with your company on a county-by-county basis, if we were to ask for it? \_\_\_\_\_

As soon as the information is available, but NO LATER THAN NOVEMBER 30, 2001, you must complete this form and the all of the attached rate charts and return it to the Arizona Department of Insurance. Return this form to

Douglas E. Ullrich, Analyst
Life and Health Division
Arizona Department of Insurance
2910 North 44th Street, Suite 210
Phoenix, AZ 85018

Or email it to dullrich@id.state.az.us----- Questions: Call Doug Ullrich at (602) 912-8460.





